

**STATE OF TENNESSEE  
DEPARTMENT OF FINANCIAL INSTITUTIONS**

|                             |   |                         |
|-----------------------------|---|-------------------------|
| <b>In the matter of:</b>    | ) |                         |
|                             | ) | <b>TDFI no: 08-64-C</b> |
| <b>PATRICK PATEL dba</b>    | ) |                         |
| <b>TRIPLE "S" SERVICES,</b> | ) |                         |
|                             | ) |                         |
| <b>Respondent.</b>          | ) |                         |

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**EMERGENCY CEASE AND DESIST ORDER**

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The Commissioner of the Tennessee Department of Financial Institutions (hereinafter, "Commissioner"), having determined that Patrick Patel dba Triple "S" Services (hereinafter, "Respondent"), has violated and is violating the Deferred Presentment Services Act, Tenn. Code Ann. §§ 45-17-101, *et seq.* (hereinafter, "DP Act"), and that extraordinary circumstances warrant immediate action, hereby issues the following EMERGENCY CEASE AND DESIST ORDER pursuant to Tenn. Code Ann. §§ 45-1-107(a)(4) and (c) and Tenn. Code Ann. § 45-17-116(c).

**JURISDICTION AND IDENTIFICATION OF THE PARTIES**

1. Pursuant to Tenn. Code Ann. § 45-1-104, the Tennessee Department of Financial Institutions (the "Department") is charged with the execution of all laws relative to persons doing or engaged in banking or other business as provided in Title 45 of the Tennessee Code. Therefore, and pursuant to the DP Act, the Department is charged with executing all laws relative to the business of providing deferred presentment services.

2. Tenn. Code Ann. § 45-1-107(a)(4) provides that the Commissioner has the power to order any person to cease violating a provision of Title 45 of the Tennessee

Code or lawful regulation issued thereunder, and Tenn. Code Ann. § 45-1-107(c) allows the Commissioner to issue such an order without providing prior notice and opportunity for a hearing in cases involving extraordinary circumstances requiring immediate action, provided that a subsequent hearing be promptly afforded upon application to rescind the action taken.

3. Tenn. Code Ann. § 45-17-116(c) provides that, in cases involving extraordinary circumstances requiring immediate action, the Commissioner may order a person to cease and desist from violating the DP Act without providing the opportunity for a prior hearing, provided that a subsequent hearing be promptly afforded upon an application to rescind the action taken that is filed with the Commissioner within twenty (20) days after service of the emergency order.

4. The Respondent is an individual who has engaged in business operations under the name "Triple "S" Services" at 885 North Water Street, Gallatin, Tennessee 37066.

### **FACTUAL ALLEGATIONS**

5. Under the DP Act, the Department, through its Compliance Division, regulates deferred presentment services providers and the business of making deferred presentment transactions, which regulation includes the investigation, licensing, and examination of said providers.

6. The Respondent's location at 885 North Water Street, Gallatin, Tennessee 37066 has never been licensed by the Department under the DP Act or in any capacity.

7. On or about May 7, 2008, the Department received a complaint regarding loans made to a consumer by the Respondent.

8. On or about May 14, 2008, and in response to the complaint, the Department's Compliance Division had examiner Robert M. Walker (hereinafter, "Examiner") complete an investigation of the Respondent's business at the Respondent's location at 885 North Water Street, Gallatin, Tennessee 37066 (hereinafter "Investigation").

9. Upon review of the Respondent's books, records, and files, the Examiner discovered customers' checks, accounting records, deferred presentment services agreements, and other documents, which documents the Examiner photocopied and/or collected.

10. The documents collected and photocopied pursuant to the Investigation show that, since at least July 2, 2006, the Respondent has been engaged in the business of providing deferred presentment services to customers for a fee without holding a license from the Department to engage in the business of deferred presentment services.

11. The above lengthy, continuing, and current pattern of engaging in deferred presentment services without a license from the Department since at least July 2, 2006 is a strong indicator that the Respondent is currently engaging and will continue to engage in such transactions in the future.

#### **CAUSES OF ACTION**

12. Tenn. Code Ann. § 45-17-103 provides that no person shall engage in the business of deferred presentment services without having first obtained a deferred presentment services license from the Department, and that a separate license is required for each location from which such business is conducted. Tenn. Code Ann. § 45-17-102(3) defines "Deferred presentment services" as "a transaction pursuant to a written

agreement involving...[a]ccepting a check dated on the date it was written; and [h]olding the check for a period of time prior to presentment for payment or deposit.” Furthermore, Tenn. Code Ann. § 45-17-104 provides that an applicant for a deferred presentment services license must have a minimum net worth of not less than twenty-five thousand dollars (\$25,000) per location, and that the applicant must file an application showing to the Commissioner that it has the financial responsibility, financial condition, business experience, character, and general fitness to warrant the belief that its business will be conducted lawfully and fairly within the purposes of the DP Act.

13. The factual allegations set forth in Paragraphs five (5) through eleven (11) above, incorporated by reference herein, are sufficient to establish by a preponderance of the evidence that the Respondent engaged in the business of deferred presentment services under the DP Act without a license.

14. Therefore, and because the Respondent has never been licensed under the DP Act, the Respondent has clearly violated Tenn. Code Ann. § 45-17-103. The Respondent’s operation of a deferred presentment services business without a license has deprived the Commissioner of the opportunity to determine whether the Respondent has the requisite financial responsibility, financial condition, business experience, character, and general fitness to warrant the belief that its business will be conducted lawfully and fairly within the purposes of the DP Act prior to the Respondent making deferred presentment agreements with Tennessee consumers.

15. Pursuant to Tenn. Code Ann. § 45-1-107(c) and Tenn. Code Ann. § 45-17-116(c), the Commissioner may issue an Emergency Cease and Desist Order without affording prior notice and opportunity for a hearing when extraordinary circumstances so

require. Based on the history of unlicensed activity already committed, and the continuing pattern of providing deferred presentment services without a license to engage in the business, the likelihood exists that the Respondent will continue to violate the DP Act by engaging in unlicensed activity; therefore, these extraordinary circumstances require immediate action by the Commissioner.

### **EMERGENCY ORDER**

16. Having considered the factual allegations contained herein, the Commissioner has determined that the Respondent has violated and is violating the DP Act, and that extraordinary circumstances warrant immediate action.

17. IT IS HEREBY ORDERED that the Respondent shall immediately CEASE AND DESIST from engaging in the business of providing deferred presentment services in this state including, but not limited to, engaging in any transactions that involve accepting and holding a customer's check(s) on the date written for a period of time prior to presentment for payment or deposit.

18. The provisions of this ORDER shall remain in full force and effect unless and until such time as any provision shall have been modified, terminated, suspended or set aside by the Commissioner, an administrative judge, or any court having jurisdiction over the matters addressed herein.

### **RIGHTS OF THE RESPONDENT**

19. The Respondent has the right to a prompt hearing for the purpose of contesting and obtaining rescission of this EMERGENCY CEASE AND DESIST ORDER. If a prompt hearing is timely requested by the Respondent, the hearing shall be

conducted in accordance with the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-101, *et seq.* (“UAPA”), and Chapter 0180-6 of the Department’s Rules.

20. At any prompt hearing held, the Department’s attorney may move for the sole issue to be considered of whether extraordinary circumstances existed so as to require immediate action in this matter, and for a final adjudication upon the merits to be determined at such time that a contested case may be promptly instituted by the filing and service of a Notice of Opportunity for Hearing and a Notice of Charges.

21. In order to request a prompt hearing, the Respondent must file a written request with the Commissioner within twenty (20) days from receipt of this EMERGENCY CEASE AND DESIST ORDER. Any such written request must be filed with the Commissioner, Tennessee Department of Financial Institutions, Nashville City Center, 511 Union Street, 4<sup>th</sup> Floor, Nashville, Tennessee 37219. If no such written request is timely filed, then this EMERGENCY CEASE AND DESIST ORDER shall be deemed a Final Order under the UAPA without further legal process.

22. The Respondent may submit to the Commissioner a petition for stay of effectiveness of this EMERGENCY CEASE AND DESIST ORDER or the Final Order within seven (7) days of entry, pursuant to Tenn. Code Ann. § 4-5-316.


23. The Respondent may file a Petition for Appeal with the Commissioner within fifteen (15) days of entry of this EMERGENCY CEASE AND DESIST ORDER, pursuant to Tenn. Code Ann. § 4-5-315(b).

24. The Respondent may file a Petition for Reconsideration with the Commissioner, stating the specific grounds upon which the relief is requested, within

fifteen (15) days of entry of this EMERGENCY CEASE AND DESIST ORDER or the Final Order, pursuant to Tenn. Code Ann. § 4-5-317.

25. The Respondent may seek judicial review of this EMERGENCY CEASE AND DESIST ORDER by filing a Petition for Judicial Review in the chancery court of Davidson County, Tennessee, within sixty (60) days of the date that this Order becomes a Final Order. The filing of a Petition for Reconsideration does not act to extend the sixty (60) day period; however, if the Petition is granted, then the sixty (60) day period is tolled and a new sixty (60) day period commences from the effective date of the Final Order disposing of the Petition.

ENTERED AND EFFECTIVE, this the 20<sup>th</sup> day of May, 2008.

  
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Greg Gonzales, Commissioner  
Tenn. Dept. of Financial Institutions

### CERTIFICATE OF SERVICE

I hereby certify that, on this, the 20th day of May, 2008, a true and correct copy of the foregoing "Emergency Cease and Desist Order" was served on the following person at the Respondent's business address of 885 North Water Street, Gallatin, Tennessee 37066, by personal delivery at the following time:

Date: May 20, 2008.

Time: 4:00 AM / (PM)

Name of Person Accepting Service: Dharmil Shah  
(Name Printed)

Signature of Person Accepting Service: 

BEAU BARKER  
Department Representative Making Service (Name Printed)

  
Signature of Department Representative Making Service:

PROJECT MANAGER  
Position/Title of Department Representative Making Service